IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE EIGHTH DAY OF JULY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE SRI JUSTICE C.V.RAMULU

WRIT PETITION NO: 18792 of 1998

Between:

1. M.L.N.Chary S/o. M. Rangachary,
Central Institute of English and Foreign Languages,
Osmania University Campus, Hyderabad.
R/o Plot No.23,24, Raghavendra Nagar,
Behind Katianapuri Uppal Road, Hyderabad.
2. T.V. Prafulla Chandra S/o T.S.R. Krishnayya,
Central Institute of English and Foreign Languages,
Osmania University Campus, Hyderabad,
R/o Flat No. G-3, Phase - IV, Saptagiri Apartments,
Padmaraonagar, Hyderabad.

... PETITIONERS

AND

Central Institute of English and Foreign Languages,
Rep. by its Registrar, Osmania University Campus, Hyderabad.

...RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ, Order or Direction essentially in the nature of Writ of Mandamus directing the Respondents herein to place the Petitioners herein in the Pay Scale of Rs.2200-4000 attached to next higher post of Assistant Librarian with effect from the date of their completion of eight (8) years of service in the category of Professional Assistant with all consequential benefits and attendant benefits including arrears of salaries, seniority and promotion etc., declaring that the action of the Respondent herein in not granting the Pay Scale of Rs.2200-4000 attached to the next higher post of Assistant Librarian to the Petitioners herein who are working as Professional Assistants with effect from the date of their completion of eight (8) years of service as Professional Assistant and granting them intermediary scale of Rs.2000 - 3500 is illegal, arbitrary, irrational, illogical, discriminatory and violative of Articles 14, 16 and 21 of the Constitution of India.

Counsel for the Petitioners: MR. J. SUDHEER

Counsel for the Respondent: MR. M. RAMA RAO, SC for CIEFL.

The Court made the following:

ORDER:

This writ petition is filed seeking *mandamus* directing the respondent to place the petitioners herein in the scale of 2200-4000 attached to the next higher post of Assistant Librarian with effect from the date of their completion of eight years of service in the category of Professional Assistant with all consequential benefits including arrears of salary, seniority and promotion etc., by declaring the action of the respondent in not granting the pay scale of 2200-4000 attached to the next higher post, as arbitrary and illegal.

2. The petitioners have been working as Professional Assistants in the respondent Institute and have completed eight years of service in the said cadre. They have also obtained B.L.Sc., and M.L.Sc., degrees. According to the petitioners, after completion of eight years, they are entitled to 'one time upward movement', as per the guidelines of the University Grants Commission dated 19-01-1986 and issued thereafter from time to time in this regard.

3. The grievance of the petitioners is that as Professional Assistants they are in the pay scale of 1640-2900 and if the theory of 'one time upward movement' is applied in case of the petitioners, to remove the stagnation after rendering eight years of service, the scale available in the wing of library science is only the scale of 2200-4000 (as applicable to Assistant Librarian). May be the petitioners are not promoted to the said post of Assistant Librarian which is a post to be filled by direct recruitment as of now. But there is no other intermediary scale available in the library wing for the purpose of promotion to the next higher scale except the scale of 2200-4000. Whereas the respondent while considering the case of the petitioners for the purpose of 'one time upward movement', in view of the completion of eight years of service in the said post, the scale applicable to Section Officers is made applicable to the petitioners i.e. 2000-3500. Whether there is a promotion or not, the only 'one time upward movement' available in the library wing is the scale of 2200-4000 and the Section Officers scale is applicable to the administrative wing. The respondent some how applied the said scale to the petitioners, which is arbitrary and illegal.

4. A detailed counter affidavit has been filed by the respondent Institute denying the

allegations made by the petitioners and asserting that the next higher scale, under the Scheme, after completion of eight years of satisfactory service was awarded from 01-01-1986 to 31-12-1993, as decided by the 77th board meeting held on 06-12-1989, to all non-teaching staff belong to group B and C. Later the Board at its 92nd meeting held on 24-03-1995 decided to extend the same upto 31-12-1994. Since the petitioners completed eight years of satisfactory service by 11-03-1994 they have been awarded next higher scale i.e. intermediary scale of
2000-3500 with effect from 12-03-1994. The Administrative and the Library Staff were given next higher scale under 'one time upward movement' as per the recruitment rules i.e., wherever there is a promotional post, the scale attached to the higher post is given after completion of eight years in the lower pay scale. In the same way, the Junior Library Assistant has been awarded the scale of 1400-2600 directly from 950-1500 since as per rules the post of Semi Professional Assistants (1400-2600) is a promotional post for Junior Library Assistants and this was done in the case of administrative posts also. Where there is no promotional post, the next higher scale in the 13 core pay scales is given for such employees under 'one time upward movement'. For example, the Senior Technical Assistant in the pay scale of 1640-2900 was awarded the scale of 2000-3500 as there is no promotional quota for the Senior Technical Assistants to the post of Technical Officers though they exist at the Institute and they are meant for direct recruitment only. Hence, the same pattern is followed in the case of Professional Assistants also. The next higher scale of 2000-3500 was awarded under 'one time upward movement' since the post of Assistant Librarian is categorized as non-vacation academic post and to be filled in by direct recruitment. Therefore, the contention of the petitioners under 'one time upward movement' that the next higher scale is given basing on the eight years service rendered by them in a particular post/scale since this scheme
is extended only to those employees who are already selected and working, the question with regard to the holding of the qualifications does not arise.

5. I have given my earnest consideration to the respective submissions made by the learned Counsel on either side and perused the material available on record. At the out set, I am of the opinion that the University has not adopted any unreasonable stand in implementing the scale applicable to the Section Officers for the purpose of 'one time upward movement' Scheme in the case of the petitioners. Admittedly, the

petitioners were in the scale of 1640-2900 and the next higher scale is that attached to the post of Assistant Librarian is 2200-4000, which is a direct recruitment post. There was no intermediary scale available in the library wing for the purpose of extending the Scheme of 'one time upward movement' in respect of the petitioners in view of the fact that they have completed eight years of satisfactory service. Therefore, the University after constituting a committee decided that the next intermediary scale available for non-teaching staff being that of the Senior Section Officers i.e. Scale of 2000-3500 was adopted for the purpose of applying 'one time upward movement' Scheme in favour of the petitioners. In the absence of any clear guidelines as to what exactly the 'one time upward movement' Scheme is and how it is to be applied and particularly in a case like this when the petitioners are working as Professional Assistants (Non-teaching staff) the next 'one time upward movement' is not clear. In the absence of clarity in the guidelines the respondent Institute has adopted a reasonable posture and felt that the petitioners are entitled for the intermediary scale for completing eight years satisfactory service – the scale applicable to Section Officers, which is available to the non-teaching staff. Admittedly, the scale of 2200-4000 is applicable to the post of Assistant Librarian and the said post is a direct recruitment post. Therefore, the University could not have applied that scale construing the same to be 'one time upward movement' as an intermediary scale in respect of the petitioners since they have completed eight years of satisfactory service in the scale
of 1640-2900 in the post of Professional Assistants.

6. Nonetheless, Sri J. Sudheer, the learned Counsel for the petitioners strenuously contends that the scale applicable to the Assistant Librarians in the library wing, in the absence of any intermediary scale available in that wing the Delhi University and other Universities in the country have applied the next scale available to the Professional Assistants after eight years of service as 2200-4000 and this practice is prevalent in almost all the Central Universities, whereas the respondent has not understood the purport of the Scheme. The purport of the Scheme is to give the next 'one time upward movement' scale applicable to the same wing, since the petitioners are working in library wing; the next higher scale available is 2200-4000. Therefore, there is no ambiguity with the guidelines issued by the University Grants Commission. The petitioners are entitled for the scale of 2200-4000. The letter

issued by the University Librarian of Delhi University Library System, University Librarian Office, vide Ref: ULO/9/PA/1999/3643, dated 20-05-1999 says as under--

> 1. Professional Assistant in Delhi University also starts career in the scale of Rs.1640-2900. But after 8 years of service, he/she given One Time Upward Movement (OTUM) in the next available scale without any change of designation.
>
> This measure has been adopted to keep down the level of stagnation and also keep up the mobility and morale of the staff. The next scale available to PAs after 8 years of service is Rs.2200-4000. This system is working quite satisfactorily at our end.
>
> 2. The cadres of Library Attendant, Semi Professional Assistant and Professional Assistant are non-teaching staff cadres. Library Attendant is the entry point and subsequent cadres of SPA and PA are 100 percent internal promotion cadres from among internal eligible candidates.
>
> 3. The positions of University Librarian, Deputy Librarian and Assistant Librarian are academic positions subject to all recruitment conditions at par with the teachers. There is no provision of promotion of Professional Assistant to Assistant Librarian. Internal Professional Assistants have to complete through public advertisement and open selection for the job of Assistant Librarian."

7. Since there is an ambiguity as to consider the intermediary scale for the purpose of 'one time upward movement' Scheme after completing eight years of satisfactory service – whether in the same wing or in the time scales applicable in the Institution, the respondent Institute is directed to take appropriate instructions in this regard from the University Grants Commission within a period of three months from today and thereafter consider the case of the petitioners as per the guidelines issued by the University Grants Commission for the purpose of considering the case of the petitioners in the scale of 2200-4000 as 'one time upward movement' after completion of eight years satisfactory service and communicate the decision to the petitioners thereafter.

8. With the above directions, the writ petition is disposed of. No costs.

C.V. RAMULU, J

Dt.08-07-2005

GLV

ASSISTANT REGISTRAR

Copies to:

The Registrar, Central Institute of English and Foreign Languages,
Osmania University Campus, Hyderabad.

Two CD copies

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